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Department of the Treasury
Internal Revenue Service

Instructions for Form 5329

Return for Individual Retirement Arrangement Taxes

(Section references are to the Internal Revenue Code.)

General Instructions

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Changes You Should Note

- The term "compensation" includes all taxable alimony received by a former or current spouse under a decree of divorce or separate maintenance.

Purpose of Form.—Use this form to report any excise tax or additional income tax you owe in connection with your individual retirement account and individual retirement annuity. These two types of individual retirement arrangements are collectively referred to as an IRA in the following instructions.

Who Must File.—If you owe taxes on:

- (i) excess contributions to your IRA under section 4973,
 - (ii) premature distributions from your IRA under section 408(f), or
 - (iii) excess accumulations in your individual retirement account or annuity under section 4974,
- you must file a Form 5329.

Do not file Form 5329 to report your deduction for contributions to your IRA. Report this deduction only on your Form 1040 or Form 1040A, U.S. Individual Income Tax Return.

If you need any information about your IRA not covered in these instructions, see Publication 590, Individual Retirement Arrangements (IRAs).

Also, individuals who redeem their individual retirement bonds, see Publication 590.

When and Where to File.—Attach a 1985 Form 5329 to your 1985 Form 1040 and file both of them at the time (including any extension) and place for filing Form 1040. If you are paying tax for prior years, use a separate Form 5329 for the year you are paying tax. For example, if you made an excess contribution to your IRA in 1984 you must complete a separate 1984 Form 5329 and not a 1985 Form 5329 to determine the excess penalty tax that is owed.

If you do not have to file Form 1040 because you do not have enough income to require filing an income tax return or you are filing for prior years, file only a completed Form 5329 with the Internal Revenue Service at the time and place you are required to file Form 1040. Include a check or money order payable to the Internal Revenue Service for any tax due shown on lines 7, 11, or 14.

Sign and Date Form 5329.—This form is not considered a return unless you sign it. It must be signed whether it is being filed separately or attached to Form 1040.

Preparer's Number.—The paid preparer's number is needed only if you owe a tax on premature distributions. For further information about paid preparer's signing responsibilities, see instructions for Form 1040.

Definitions

Compensation.—Compensation includes wages, salaries, professional fees, and other pay you receive for services you perform. It also includes sales commissions, commissions on insurance premiums, pay based on percent of profit, tips, and bonuses. It includes *net earnings* from self-employment, but only for a trade or business in which your personal services are a material income-producing factor. In addition, all taxable alimony received by a former or current spouse under a decree of divorce or separate maintenance is treated as compensation.

The term "compensation" does not include any amounts received as a pension or annuity and does not include any amount received as deferred compensation.

Rollover Contribution.—Generally a rollover contribution to an IRA is an allowable contribution which is not deductible on your income tax return. See section 402(a)(6)(F) and section 402(e)(4)(M) for more information regarding distributions pursuant to qualified domestic relation orders. There are two types of rollover contributions to an IRA:

- (1) transferring a distribution from a pension plan to an IRA;
- (2) transferring a distribution from one IRA to another IRA.

Note: If you instruct the trustee of your IRA to transfer funds directly to another IRA, the transfer is not considered a rollover. Do not include the amount transferred in income and do not deduct the amount transferred as a contribution to your IRA.

(1) The first type of rollover contribution is a transfer of all or part of your interest in a qualified pension plan, profit-sharing plan, stock bonus plan, or 403(b) annuity arrangement to an IRA. To be considered as a rollover from a qualified pension, profit-sharing, or stock bonus plan, the contribution must meet requirement (a) and requirement (b), (c) or (d). To be considered as a rollover from a section 403(b) annuity arrangement, the contribution must meet requirement (a) and requirement (c) or (d). To be considered as a rollover from a bond purchase plan, the contribution must meet requirement (a) only.

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(a) You must transfer the amount of the plan or annuity arrangement distribution you want to roll over to an IRA (other than an endowment contract) within 60 days after you receive the distribution. If the distribution is other than money, transfer to the IRA the property that you received in the distribution or the money you get from selling the property. No amount of the rollover contribution to your IRA can come from contributions you have made to the plan other than accumulated deductible employee contributions. Accumulated deductible employee contributions means any qualified voluntary contributions defined in section 219(e).

(b) Your employer ends the plan and because of this your entire interest in the plan is paid to you during one tax year (ending of contributions to a profit-sharing or stock bonus plan is considered ending a plan).

(c) You receive your entire interest in the plan or section 403(b) annuity arrangement in a lump-sum distribution.

(d) You receive a distribution of part of your interest in the plan (equal to at least 50% of your interest in the plan) and such distribution is not one of a series of periodic payments nor a qualified total distribution. You elect, as prescribed in regulations under section 402(a)(5), to treat this distribution as a rollover to your IRA. You acknowledge that the making of this election prohibits you from using the special 10-year averaging and capital gains treatment on any subsequent distributions from this plan or any other plan that meets the aggregation rules of section 402(e)(4)(C).

To have a lump-sum distribution from a plan or section 403(b) annuity arrangement, the following two conditions must be met:

(a) you must receive within one tax year the distribution to you of the total amount credited to you in a qualified pension, profit-sharing, stock bonus plan, or section 403(b) annuity arrangement, and

(b) this distribution must occur on or after the day you reach age 59½ or upon the end of your employment.

If you are self-employed, a distribution due to ending of employment applies only if it is due to disability as described in section 72(m)(7).

Do not include in your income the amount of the distribution you roll over to an IRA. See Form 1040 instructions for line 17.

Special rollover of deceased spouse's interest in a qualified pension, profit-sharing, or stock bonus plan.—If you receive all of your deceased spouse's interest in one of these qualified plans within one tax year either because the

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employer ends the plan or as a lump sum distribution, you may roll over the distribution into an IRA. Transfer the part of the distribution you want to roll over to an IRA within 60 days from the date you receive it. If the part of the distribution you wish to transfer is property other than money, you must transfer to the IRA the property or the money you get from selling the property.

(2) The second type of rollover. A contribution occurs when you receive a distribution from one IRA (other than an inherited account or annuity) and transfer all or part of the distribution to another IRA (other than an endowment contract or an inherited account or annuity) within 60 days after you receive the distribution. However, any part of the distribution you do not transfer to the second IRA within 60 days is taxable income. If in the past you have received other nontaxable distributions like this, at least one year must have passed before you can make this distribution and not be taxed.

Premature Distribution.—Generally any distribution from your IRA that you receive before you are age 59½ is a premature distribution.

The following are exceptions to the above general rule and are not considered premature distributions:

(1) Amount distributed because of disability (defined in section 72(m)(7)) or death and

(2) Amount transferred to a former spouse under a divorce decree or current spouse under a separate maintenance agreement.

See Specific Instructions, Part II for the tax on premature distributions.

Prohibited Transactions.—Transactions such as borrowing from your individual retirement account or annuity or using your account or annuity as a basis for obtaining a benefit are prohibited transactions. They cause the individual retirement account or annuity to no longer be considered an individual retirement account or annuity under section 408 as of the first day of your tax year in which the transaction occurs. Further, the entire value of your account or annuity is considered distributed to you as of the first day of your tax year. See Specific Instructions, Part II, Line 8(a).

Pledging of Account.—

(1) If, during the tax year, you use any part of your account as security for a loan, that part is treated as being distributed to you.

(2) If, during the tax year, you use all or any part of your individual retirement annuity contract as security for a loan, the total value of that contract is treated as being distributed to you as of the first day of your tax year.

Also, if you are under age 59½ at the time the account or annuity is treated as being distributed to you, these distributions are subject to the tax on premature distributions. See Specific Instructions, Part II, lines 8(a) and 10.

Note: Report any distributions received or considered to be received from your IRA as a fully taxable pension on Form 1040, line 16, except:

(a) Rollover contributions to another plan or IRA.

(b) Excess current year contributions that you withdraw from your IRA before the due date of your income tax return for the year the excess contributions were made and for which you took no deduction.

(c) Any excess contributions from earlier years that you withdraw, if the total contributions for the year in which the excess contributions were made are not more than \$2,250 (or if the total contributions for the year include employer contributions to a SEP, increased by the lesser of the amount of the employer contributions to the SEP or \$15,000) and you took no deduction for the excess contributions.

(d) Amounts transferred (by transfer of ownership of an IRA) to a former spouse under a divorce decree or current spouse under a separate maintenance agreement.

(e) Any individual retirement annuity contracts distributed to you. However, report on your income tax return any payments you received from these annuities as fully taxable annuity payments.

Specific Instructions

Part I—Excess Contributions Tax for Individual Retirement Arrangements

If you have contributed, either this year or in earlier years, more to your IRA than is allowable as a deduction on your Form 1040 or 1040A, you may have to pay an excess contributions tax.

However, if you withdrew your current year excess IRA contributions before the due date (including any extension) of your current year's income tax return, the excess will not be taxable as excess IRA contributions if:

- (1) you do not claim a deduction for the amount of the excess contributions withdrawn, and
- (2) the withdrawal from your IRA includes any income earned on the excess contributions.

Do not include such withdrawal excess contributions on line 1.

However, you must include the income earned on the excess contributions withdrawn before the due date of your income tax return on Form 1040 for the year in which the contribution was made. Also report 10% of the income on line 9, Form 5329, for the year of the distribution if you have not reached age 59½ at the time you received the distribution of income.

Line 1.—Enter the excess contributions you made in 1985. You can figure this amount from the worksheet in the instructions for line 26 of Form 1040. The amount of taxable excess contributions is the difference you get by subtracting your limitation on line 4 or 10 of that worksheet from your actual contributions.

Note: Any distribution of current year excess contributions will not be subject to the tax on premature distributions (see Part II) if you withdraw them and any income earned on them before the due date of your income tax return; if you do not take a deduction for them; and if you included all the income earned on the excess contributions withdrawn on Form 1040, line 16 and 10% of the income on Form 5329, line 9. All other withdrawals of excess contributions will not be subject to the tax on premature distributions if the total contribution for the year in which the excess contributions were made is not more than \$2,250 (or if the total contributions for the year include employer contributions to a SEP, increased by the lesser of the amount of the employer contributions to the SEP or \$15,000) and you did not take a deduction for the excess contributions.

Line 2.—Enter the 1984 excess contributions not withdrawn from your IRA before the due date of your 1984 income tax return. Also enter 1983 and earlier excess contributions not withdrawn or otherwise eliminated before January 1, 1985.

Line 3.—If your maximum limitation is larger than the amount actually contributed to your IRA, and you have excess contributions from earlier years which have not been eliminated, complete the following worksheet below to see if you have a contribution credit.

Worksheet for line 3

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|---|--|
| 1 | Enter amount from line 2 of the IRA worksheet in Form 1040 instructions for line 26, but not more than \$2,000 (\$2,250 if you contributed to your non-working spouse's account). |
| 2 | Enter amount that is deductible under section 219 and is contributed either to your account or to your and your non-working spouse's accounts. (Do not include contributions under section 219(f)(6).) |
| 3 | Contribution credit—subtract line 2 from line 1. Put this amount on line 3 of Form 5329. Also include on line 4 or 10 whichever is applicable, of the worksheet in Form 1040 instructions for line 26 either (i) this amount or (ii) your earlier years' excess contributions not previously eliminated, whichever is smaller (see section 219(f)(6)). |

Line 4(a).—If you have withdrawn any money from your IRA in 1985 that must be included in your income for 1985, write the amount on line 4(a). Do not include in this amount any excess contributions withdrawn that will be reported on line 4(b).

Line 4(b).—Enter on this line any excess contributions to your IRA for 1976 through 1983 that you withdrew in 1985 and also enter any 1984 excess contributions that you withdrew after the due date (including any extensions) for your 1984 income tax return if:

- (1) you did not claim a deduction for the excess contributions, and
- (2) the total contributions to your IRA for the tax year for which the excess contributions were made were not more than \$2,250 (or if the total contributions for the year include employer contributions to a SEP, increased by the lesser of the amount of the employer contributions to the SEP or \$15,000).

Part II—Tax on Premature Distributions

Line 8(a).—If you engage in a prohibited transaction (see definition on page 2), borrow any amount from your individual retirement annuity or pledge any or all of your annuity contract as security for a loan, the account or annuity is considered ended. You are considered to have received a distribution of the entire value of your account or annuity as of the first day of the year in which any of these transactions take place. If you are under age 59½ on the first day of the year, report 10% of the distribution on line 8(a) unless the distribution is because of a disability you have incurred. If you enter an amount on line 8(a), do not fill in line 9 or 10 for this IRA.

Line 8(b).—The cost of any collectible in which you invested funds of your arrangement in 1985 is deemed to be a distribution to you in 1985. The cost is includible in your 1985 income. Enter the total cost of the collectible on Form 1040, line 16. If you are under age 59½ when the funds were invested, enter 10% of the cost of the collectible on line 8(b).

For this tax a collectible is:

- (1) any work of art,
- (2) any rug or antique,
- (3) any metal or gem,
- (4) any stamp or coin,
- (5) any alcoholic beverage, or
- (6) any other tangible personal property specified by regulations under section 408(m).

Line 9.—The following distributions are not to be taken into account on line 9:

(a) 1985 excess contributions withdrawn during the year or 1984 excess contributions withdrawn in 1985 before the filing date (including extensions) of your 1984 income tax return;

(b) "Rollover contributions" to another retirement arrangement or plan;

(c) Amount distributed because of disability;

(d) Amount transferred to a former spouse under a divorce decree;

(e) Amount from an arrangement for which you made an entry on line 8;

(f) Amount distributed from an arrangement because it was pledged as security for a loan (use this amount for line 10 purposes);

(g) 1976 and 1977 excess contributions withdrawn in 1985 if no deduction was allowed for the excess contributions; or

(h) 1978 through 1983 excess contributions withdrawn in 1985 and 1984 excess contributions withdrawn after the due date (including extensions) of your 1984 income tax return if no deduction was allowed for the excess contributions and the total IRA contributions for the tax year for which the excess contributions were made were not more than \$2,250 (or if the total contributions for the year include employer contributions to a SEP, increased by the lesser of the amount of the employer contributions to the SEP or \$15,000).

Line 10.—If you pledge any portion of your individual retirement account as security for a loan, enter 10% of the amount pledged on line 10, and the total of the amount pledged on Form 1040, line 16.

Part III—Tax on Excess Accumulations in Individual Retirement Accounts and Annuities

For tax years ending in 1985, you must start receiving a distribution of your individual retirement account or annuity on or before April 1, 1986 if you reached age 70½ during 1985. This distribution may be either:

(a) the entire interest in your account,

(b) an annuity which provides for non-increasing payments payable during your life or the lives of you and your designated beneficiary.

(c) approximately equal payments at least annually over a period of years not greater than your life expectancy (see Table I, on page 4), or

(d) approximately equal payments at least annually over a period of years not greater than the joint life and last survivor expectancy of you and your designated beneficiary (see Table II, on page 4).

If the initial payment was not received, or if the payments you received were not made according to (a) through (d) above, complete the worksheet on page 4 to see if you have to pay any excise tax.

Note: The IRS may waive this tax on excess accumulations. The waiver of the tax is conditional upon evidence you submit that any shortfall in the amount of withdrawals from your IRA was due to reasonable error, and that appropriate steps have been or are being taken to remedy the shortfall. If you believe you qualify for this waiver, file Form 5329, pay this excise tax, and attach your letter of explanation. If your waiver request is granted we will send you a refund.

Worksheet for Tax on Excess Accumulations in Individual Retirement Accounts and Annuities

A. Current year distribution method:

- 1 Value of your account/annuity* as of the first day of this year
- 2 (a) Multiple from Table I or II below, whichever is applicable
- (b) Number of years since the last day of the tax year in which you became age 70½
- (c) Adjusted life expectancy multiple (subtract line 2(b) from 2(a))
- 3 Minimum required distribution (divide line 1 by line 2(c) and enter the result here)
- 4 Amount actually distributed to you from your individual retirement account/annuity this year
- 5 If line 3 is greater than line 4, enter the difference here; otherwise enter zero
- 6 Tax on under-distributed amount (50% of line 5). Enter here and on Form 5329, line 12

B. Aggregate distribution method.—This method is not applicable to you if you are filing this return for the year you reach age 70½ or if you have not received any distribution from your IRA since you reached age 70½:

- 7 Total of all minimum annual amounts required to be distributed starting with the year you reached age 70½ through the end of this year. (Compute line A.1 through 3 for each year starting with the year you reached age 70½. Enter the total of all line A.3 computations here.)
- 8 Total of all distributions made starting with the year you reached age 70½ through the end of the year covered by this return
- 9 If line 7 is greater than line 8, enter the difference here; otherwise enter zero
- 10 Tax on undistributed amount (50% of line 9). Enter here and on Form 5329, line 13

* The value of your annuity for this computation is the reserve under the contract. You can get this information from the insurance company that issued your contract.

Table I

One Life—Expected Return Multiples

To be used for distributions described in Part III, (c), on page 3

Owner of Individual Retirement Arrangement	Multiple
Female	15.0
Male	12.1

For designated beneficiaries other than the spouse, see the annuity tables in *Publication 575, Pension and Annuity Income*, for the appropriate life expectancy multiple.

Table II

Two Lives—Joint Life and Last Survivor—Expected Return Multiples

To be used for distributions described in Part III, (d), on page 3

Owner of Individual Retirement Arrangement	Age of Spouse (in year you became age 70½)												
	61	62	63	64	65	66	67	68	69	70	71	72	73
Female-Multiple	21.6	21.1	20.7	20.3	19.9	19.6	19.2	18.9	18.6	18.3	18.0	17.8	17.5
Male-Multiple	23.0	22.4	21.8	21.2	20.7	20.2	19.7	19.2	18.7	18.3	17.9	17.5	17.1

Owner of Individual Retirement Arrangement	Age of Spouse (in year you became age 70½)											
	74	75	76	77	78	79	80	81	82	83	84	85
Female-Multiple	17.3	17.1	16.9	16.7	16.6	16.4	16.3	16.2	16.0	15.9	15.8	15.8
Male-Multiple	16.7	16.4	16.1	15.8	15.5	15.2	14.9	14.7	14.5	14.3	14.1	13.9

